

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Los Jalapenos Restaurant
Miriam Del Carmen Ventura, Permittee
Miriam Del Carmen Ventura, Backer

Case No. 2010-491
Permit No. LIR.18076

Docket No. 2011-700
September 15, 2011

MEMORANDUM OF DECISION

This matter involves a restaurant liquor permit issued to Los Jalapenos Restaurant, 594 Success Avenue, Stratford, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on July 21, 2011. Miriam Del Carmen Ventura, permittee and backer, appeared with her son.

The following charges are alleged against the Respondent. It is alleged that on April 20, 2010, the Respondent violated: (1) Sec. 30-86 of the Connecticut General Statutes in that it sold or delivered alcoholic liquor to a minor; (2) Sec. 30-90 of the Connecticut General Statutes in that a minor was allowed in the barroom of this premises; and (3) Sec. 30-22 of the Connecticut General Statutes in that patrons removed alcohol from the premises. The respondent denied the charges, and the matter proceeded to a hearing.

We find the following facts. On April 20, 2010, Sgt. David Gugliotti of the Stratford Police Department responded to a complaint of

loud music. At approximately 12:34 a.m., he entered Los Jalapenos by way of a side door. As he was entering, patrons were exiting the premises with cups containing alcoholic beverages. Among those exiting patrons was Brenda Hernandez, a minor, who was in possession of a cup containing an alcoholic beverage. Officer Gugliotti did not observe the sale or delivery of alcohol to Ms. Hernandez. The department attempted to subpoena Ms. Hernandez to testify at this hearing; however, its efforts were unsuccessful. The charges of sale to minor in violation of Sec. 30-86 of the Connecticut General Statutes and minor in barroom in violation of Sec. 30-90 of the Connecticut General Statutes must be dismissed based upon the lack of substantial evidence. Administrative findings must be based upon substantial evidence. Nelseco Navigation Company v. Department of Liquor Control, 34 Conn. App. 352, 354, 641 A.2d 827 (1994).

Officer Gugliotti testimony as to his personal observations of individuals leaving the permit premises in possession of cups containing alcoholic beverages was credible and compelling. Based upon his testimony, we find this premises in violation of Sec. 30-22 of the Connecticut General Statutes in that alcohol was removed from the permit premises.

The Liquor Control Act grants the Liquor Control Commission a liberal discretionary power to determine factual matters with regard to

liquor permits and to suspend or revoke the permit after a hearing. Balog v. Liquor Control Commission, 150 Conn. 473, 191 A.2d 20 (1963). Accordingly, we hereby suspend the Respondent's permit for a period of five days. In lieu of the 5-day suspension, we will accept payment of a fine of \$375, in accordance with Section 30-6-A8(i) and (k) of the Regulations of Connecticut State Agencies.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION
BY:**

Elisa A. Nahas, Esq.
Designated Presiding Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

MIRIAM DEL CARMEN VENTURA, 66 JULUDOW DR, MASSAPEQUA
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Via US Mail and Certified Mail # 7010 1670 0000 0762 2706

Non-Parties:

John Suchy, Director, Liquor Control Division
Connecticut Beverage Journal
Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106